HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)
Description of the case.

WPS/S No. 1858/2005

Pooran Ram

Vs

Principal Government

Industrial Training Institute

Kanda Bageshwar

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 27.2.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1858 (SS) OF 2005

Pooran Ram, son of Sri Ram Lal, R/o Village Banstoli, Post Vijaypur, District Bageshwar. .....Petitioner.

Versus

1. Principal, Government Industrial Training Institute, Kanda, District Bageshwar.
2. Director, Training and Employment, Uttaranchal, Haldwani, District Nainital.
3. State of Uttaranchal, through Secretary, Department of Labour and Employment, Government of Uttaranchal, Dehradun. .....Respondents.

Sri Manoj Tiwari, Advocate for the petitioner.
Learned Standing Counsel for the State.

Dated: 27.02.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondent no. 1 to permit the petitioner to join duties as Mitra Anudeshak in Government Industrial Training Institute, Kanda, District Bageshwar, against the available vacancy in Hindi Stenography Trade. The petitioner has further prayed for a writ of Mandamus commanding the respondent no. 2 to give weightage/bonus marks to the petitioner at the time of regular selection to the post of Instructor (Hindi Stenography) in the light of past services rendered by the petitioner in the capacity of daily wage instructor and also as Mitra Anudeshak in accordance with the conditions of Advertisement No.2/05.

2. Brief facts giving rise to the present writ petition are that the petitioner after undergoing one year course in Hindi

Stenography from Government Industrial Training Institute, Kanda, District Bageshwar, appeared in the All India Trade Test and he passed the said Trade Test in the year 1991. The petitioner has submitted that he also possesses Intermediate qualification, as such, he is eligible for appointment as Instructor (Hindi Stenography) in Government Industrial Training Institutes.

3. Learned counsel for the petitioner has submitted that in Government Industrial Training Institute, Kanda District Bageshwar, one post of Instructor (Hindi Stenography) had fallen vacant on account of promotion of the regular incumbent namely Sri Rajendra Ram Arya, who belongs to scheduled caste category.

4. Keeping in view the academic qualifications and the reservation policy, the petitioner was appointed as Instructor (Hindi Stenography) against the said vacancy on daily wages. The petitioner joined his duties on 08.12.1992 and continuously served upto July 1993. The petitioner was again appointed in August, 1993 and he thereafter worked upto July 1994.

5. The petitioner has submitted that after creation of State of Uttaranchal, he submitted one representation on 30.11.2001 before the respondent no. 1 claiming appointment against the available vacancy for the post of Instructor (Hindi Stenography). Thereafter the petitioner filed Writ Petition No. 7193 (SS) of 2001 and this Hon'ble Court vide order dated 20.12.2001 pleased to direct the respondents to decide the representation dated 30.11.2001. Since no steps were taken by the respondent no.1 towards the compliance of the order of this Hon'ble Court, as such, the petitioner sought intervention of District Magistrate, Bageshwar by submitting one representation dated 17.09.2002.

6. Ultimately, the petitioner was given appointment as Mitra Anudeshak in accordance with the Government policy w.e.f. 21.09.2002 and the petitioner joined duties in the same capacity in Government Industrial Training Institute, Kanda, District Bageshwar, the same day. The petitioner continued to discharge duties of Instructor (Hindi Stenography) in the capacity of Mitra Anudeshak in the remuneration of Rs. 100/- per day.

7. The petitioner has confined his prayer to the relief of mandamus only for giving him weightage/bonus marks to the petitioner at the time of regular selection to the post of Instructor (Hindi Stenography) in view of the conditions mentioned in the notification dated 26th November, 2005 to the following effect:-

''वर्तमान में अनुदे ाकों की नियमित नियुक्ति हेतु प्रक्रिया जारी है । नियमित नियुक्ति हेतु प्र ाक्षण मित्र अनुदे ाक कार्य अनुभव के आधार पर प्रत्येक वर्श के लिए 01 अंक व अधिकतम 10 अंक दिये जाने तथा नियुक्ति के समय अधिकतम आयुसीमा के अन्तर्गत आने वाले प्र ाक्षण मित्र अनुदे ाकों को विभागीय सेवा अवधि के बराबर अधिकतम आयुसीमा में छूट प्रदान किये जाने का प्राविधान रखा गया है । किन्तु अधिकां ा प्र ाक्षण मित्र निर्धारित आयुसीमा के अन्तर्गत नहीं है व व्यवसाय वि ोश में बैकलाग रोस्टर लागू किये जाने से, वर्तमान में जारी विज्ञापन में कुछ व्यवसायों में सामान्य अभ्यार्थियों हेतु पद न होने से भर्ती प्रक्रिया में कोर्ट केस की स्थिति उत्पन्न हो सकती है ।''

8. In view of the above, liberty is given to the petitioner to make a fresh representation within a period of ten days from the date of presentation of the certified copy of the order.

9. If such representation is filled, the same shall be decided within three weeks thereafter in accordance with the G.O. dated 26th November, 2005 considering the past services of the petitioner. If the regular selection has not been made, the

petitioner may be considered for appointment on the post of Mitra Anudeshak.

10. Writ petitioner is disposed of. No order as to costs.

(Rajesh Tandon, J.)

27.02.2006
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